

**STAFF REPORT
ZONING BOARD OF ADJUSTMENT
Thursday, May 17, 2018
9:00 a.m.
Room 105 Courthouse Annex
Cascade County Commissioners Chambers**

SUP #05-018

Subject Property Information

Name & Address Applicant:	Erwin Wollman 57 Gibson Flats Rd Great Falls, MT 59404
Property Owner:	Sandra Dickman 130 Gibson Flats Rd Great Falls, MT 59404
Geo Code:	02-3016-20-2-01-01-0000
Parcel Number:	0002640900
Existing Zoning:	Agricultural (A) District
Legal Description:	Section 20, Township 20N, Range 04E
Requested Action and Purpose:	Approval to operate commercial/retail establishment/warehouse and for general sales
Total Land Area:	25.4 Acres
Adjacent Land Uses & Zoning:	North: Suburban Residential SR-1, Residential and Agricultural uses South: Agricultural Use/Zoning West: SR-1, Residential East: SR-1 Residential and Undeveloped Land
Current Land Use:	Agricultural Use/Structure
Applicable Regulations:	Section 7.2.4 (11), and Section 10 of the Cascade County Zoning Regulations

General Information:

The Cascade County Zoning Board of Adjustment is in receipt of a Special Use Permit application from Erwin Wollman, for general sales of prepackaged food products from a building located at 57 Gibson Flats Rd, Great Falls, MT 59405.

10.1 General Provisions

A special use is a use for which conformance to additional standards will be required and shall be deemed to be a permitted use in its respective district, subject to the standards and requirements set forth herein, in addition to other applicable requirements of these regulations. All such uses are hereby said to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

A special use permit may be issued only upon meeting all requirements in these regulations for a specific use which is explicitly mentioned as one of the "Uses Permitted Upon Issuance of a Special Use Permit as Provided in Section 10" within the respective zoning districts contained in Section 7 or Section 8.1.5 hereof. After the public hearing is closed, the Zoning Board of Adjustment can approve, deny, or approve with conditions the Special Use Permit. A separate Special Use Permit shall be required per each tract of land. The Special Use Permit fee shall be \$450.00.

10.4 Expiration

The Zoning Board of Adjustment approval of the Special Use Permit shall be valid for only one particular use and shall expire one year after the date of approval, if construction or the use has not started. The Zoning Administrator may grant a one-time only six (6) month extension of the Zoning Board of Adjustment approval.

The Special Use Permit shall expire if the use ceases for six (6) months for any reason. Any further extension requests must be granted by the Zoning Board of Adjustment prior to the date of expiration.

10.7 Operations

Operations in connection with the Special Use permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

Findings of Fact:

1. The property is in an Agricultural (A) Zoned District. The proposed prepackaged food sales business is allowed in the Agricultural (A) District pursuant to Section 7.2.4 (11), which reads, *"Uses permitted upon issuance of a Special Use Permit... General Sales, including Agricultural Sales, Auction Sales, Convenience Sales, Shopping Center, Specialty Sales"*.

2. Sandra Dickman is the legal owner of the property where the business is to be located.
3. The products being sold arrive at the sale site prepackaged for sale, no packaging is done on-site.
4. The property is not in violation of any Cascade County Zoning Regulations or any other County Ordinance, and county taxes are current.
5. Legal notice of the application and the public hearing was published in the *Great Falls Tribune* on May 6, 2018 and May 13, 2018. It was also mailed to surrounding neighbors with certified letters on April 30, 2018. At the time of writing this report, staff received no comments but received a couple of inquiries about the daily operation.
6. A Special Use Permit may be revoked by the Cascade County Zoning Board of Adjustment at any time a building(s) or use(s) is deemed to be in violation of the standards and zoning requirements under which the special use permit was issued. A violation of a special use permit will be handled as any other violation under Section 13 of these regulations.
7. Appeals of the Zoning Board of Adjustment decision shall follow the process outlined in Section 12 of the Cascade County Zoning Regulations.

Findings with Respect to the Analysis Criteria

Staff provides that the following analysis, findings and conclusion for each of the required criteria and conclusions provided under the controlling sections of the Zoning Regulations.

1. Conditions may be required that the Zoning Board of Adjustment determines if implemented, will mitigate potential conflicts in order to reach these conclusions.
2. The proposed development will not materially endanger the public health or safety.

Considerations:

- a. Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and curb cuts.

Applicant: Very good. But as everywhere drivers need to be prudent.

Staff: There is an existing approach to the proposed parcel of land that is paved. Planning staff does not have to ability to

calculate how many trips per day the facility will generate. A traffic count done by Cascade County in 2017 right East of 26th street south that calculated 626 average trips per day.

- b. Provision of services and utilities including sewer, water, electrical, garbage collections, and fire protection.

Applicant: The building is mostly metal and concrete. Good cell service. Water and sewer are being installed as I write this. Fire department is rural. Garbage is County (we haul). Utilities are all in.

Staff: The applicant is not proposing to construct new structures or facilities. Planning staff does not anticipate any change to the provision of services and utilities, such as trash, and fire protection with the proposed business. Any changes to water and wastewater will require approval by the City-County Health Department. Fire protection services are provided by the Sand Coulee Volunteer Fire Department.

- c. Soil erosion and sedimentation.

Applicant: Well graveled, positive drainage at the new building.

Staff: The applicant does not plan on building additional structures, this project will not likely adversely impact soil erosion and sedimentation.

- d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

Applicant: Not applicable because we will not affect the surface or ground water.

Staff: If the use on the water/wastewater system reaches twenty-five (25) or more users for sixty (60) or more days a year, it will need to be reviewed as a public water/wastewater system.

- 3. The proposed development will not substantially injure the value of adjoining property, or is a public necessity.

Considerations:

- a. The relationship of the proposed use and the character of the development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

Applicant: Will have no negative impact on adjoining properties. Relationships in area so far are excellent.

Staff: Planning staff does not anticipate conflicts between surrounding property owners as a result of the proposed business.

- b. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or county as whole, to justify it regardless of its impact on the value of adjoining property.

Applicant: This development is a very positive factor in the neighborhood.

Staff: Planning staff does not believe the proposed business will have a positive or negative impact on the public health, safety, and general welfare of the community.

- 4. The proposed development will be in harmony with the area in which it is located.

Considerations:

- a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

Applicant: This development is not only in harmony, but a good example of what can be done in this neighborhood. Conflicts usually just need to be listened to, and attended to according to the local rules and law.

Staff: The area surrounding this proposed use is a mix of residential, agriculture, and undeveloped land. Planning Staff does not believe that the addition of this business will generate conflict with the surrounding uses more than any other principal permitted use of the property.

- 5. The proposed development will be consistent with the Cascade County Growth Policy.

Considerations:

- a. Consistency with the growth policy objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its location standards.

Goal 1: Sustain and strengthen the economic well-being of Cascade County's citizens.

- A. *Stimulate the retention and expansion of existing businesses, new businesses, value-added businesses, wholesale and retail businesses, and industries including agriculture, mining, manufacturing/processing and forest products.*

Applicant: We will sell factory sealed and Government approved products as a wholesale business.

Staff: Staff believes that this is an appropriate use of the facility and area, and will broaden marketing and agricultural opportunities for the County and reduce food waste.

- B. *Stabilize and diversify the county's tax base by encouraging the sustainable use of its natural resources.*

Applicant: Yes.

Staff: This business has the potential to work with local farmers and ranchers and provide them the opportunity to sell their products locally.

- C. *Identify and pursue primary business development that complements existing business, which is compatible with communities, and utilizes available assets. Identify and pursue targeted business development opportunities to include, but not limited to, manufacturing/heavy industry, telecommunications, and youth/social services.*

Applicant: Prairie Market will employ CDL licensed drivers to export as well as bring economically viable products to local businesses.

Staff: The applicant's proposal will require the employment of drivers to transport their product and will provide a local market for locally produced agricultural products.

- D. *Promote the development of cultural resources and tourism to broaden Cascade County's economic base.*

Applicant: Not applicable because we are not involved in tourism but we will contribute to the expansion of Cascade County's base.

Staff: Staff agrees that this will not have an impact on tourism.

- E. Foster and stimulate well-planned entrepreneurship among the county's citizenry.

Applicant: Yes, we will sell to businesses at wholesale to increase profits.

Staff: This proposal is a good example of entrepreneurship as it captures local trade and provides essential food-products to consumers at a competitive price.

- F. Promote a strong local business environment. Encourage and strengthen business support mechanisms such as chambers of commerce, development organizations and business roundtable organizations.

Applicant: Prairie Market will partner with Chamber of Commerce and completely support the City of Great Falls, MT. Prairie Market donates to the local St. Vincent and local food bank.

Staff: Staff believes that the applicant strongly desires to be a part of the local business community and provide charitable services when appropriate.

- G. Improve local trade capture for Cascade County businesses. Promote local shopping as well as well-planned businesses and new businesses.

Applicant: We will cooperate with local businesses to promote local shopping and businesses.

Staff: This application is for a permit to operate a local business and fits this criteria to the letter.

- H. Network with and support other economic development efforts in the region and statewide, in recognition of Cascade County's interdependence with other communities and to leverage available local resources.

Applicant: We are going to be selling to multiple Montana counties and other states as well.

Staff: Once all appropriate permits have been attained, this business will be able to use Cascade County as a hub to distribute product across the state, bringing trade dollars back into the County's economy.

- I. Encourage the growth of the agricultural economy.

Applicant: We will encourage the growth of the agricultural economy by working and selling directly to the agricultural community and selling agricultural products.

Staff: The applicant seeks to work directly with local producers to sell local product. Staff agrees with the applicant's assessment that they will allow area agricultural producers to promote their business through their venue.

- J. *Stimulate the growth of the economy by encouraging the use of alternate methods of energy production, including wind energy.*

Applicant: Prairie Market is not involved directly, but will purchase electricity from wind.

Staff: The applicant's proposal will not have any negative impacts on the use of alternative energy sources.

GOAL 2: Protect and maintain Cascade County's rural character and the community's historic relationship with the natural resource development.

Objectives:

- A. *Foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests.*

Applicant: We will consciously and always support natural beauty of grazing areas, farmlands and forest.

- B. *Preserve Cascade County's scenic beauty and conserve its forests, rangelands and streams, with their abundant wildlife and good fisheries.*

Applicant: We will do everything to enhance and conserve the flora and fauna of Cascade County as well as rangeland and streams but Prairie Market is not involved to affect the forest.

- C. *Preserve Cascade County's open space setting by encouraging new development to locate near existing towns and rural settlements and by discouraging poorly designed, land subdivisions and commercial development.*

Applicant: We will not be involved in open development.

- D. *Assure clean air, clean water, a healthful environment and good community appearance.*

Applicant: Prairie Market will not be involved in this.

- E. *Support the development of natural resources including but not limited to timber, mining, oil and gas production, and renewable energy production.*

Applicant: Prairie Market will not be involved so this is not applicable.

- F. *Continue to work with federal and state agencies to redevelop properties within Cascade County which are currently undergoing Superfund and Brownfields process.*

Applicant: Prairie Market will work with Federal and State agencies.

Staff: Staff believes the proposed business would not positively or negatively impact Cascade County's rural character or the community's historic relationship with the natural resource development. The applicant is not building any new structures. Staff feels that the proposed business is consistent with Goal 2 of the Cascade County Growth Policy and will not have a detrimental impact on scenery or forestry, and will have a direct positive impact on agricultural development.

GOAL 3: Maintain Agricultural economy

- A. *Protect the most productive soil types.*
- B. *Continue to protect soils against erosion.*
- C. *Protect the floodplain from non-agricultural development.*
- D. *Support the development of value-added agricultural industry in Cascade County utilizing the products from the regional area.*

Applicant: Prairie Market completely supports agriculture industry in Cascade County by utilizing these products.

Staff: The proposed business should not have positive or negative impacts on productive soil types or soil erosion due to no new structures being built on the property. According to FEMA panel 30013C0607E, the structure is located in Zone X which means it is outside of the Special Flood Hazard Area. The proposed business will be directly tied to Cascade County's value-added agricultural industry, and will have a beneficial effect.

GOAL 4: Retain the presence of the US Military in Cascade County.

Objectives:

- A. Encourage the federal congressional delegation to actively support maintaining the current mission status at a minimum.*
- B. Promote the location of additional military missions in Cascade County.*
- C. Encourage the reactivation of the runway at Malmstrom Air Force Base for fixed wing operations.*
- D. Refer to the Joint Land Use Study for resolving conflicts and promoting mission compatible development.*

Applicant: Not applicable to the US Military, we are not contracted with them.

Staff: Mr. Wollman's proposed business would not positively or negatively impact the presence of the US Military in Cascade County. The proposed parcel of land is about 2.5 miles away from Malmstrom Air Force Base and lies in Military Height Overlay District D, which prohibits structures 150 feet above the runway. The existing structure is well within this tolerance. The parcel is roughly 11 miles away from the nearest Missile Launch Facility.

GOAL 5: Preserve and enhance the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.

Objectives:

A. Maintain Cascade County's citizens independent lifestyle and minimize local governmental intervention, to the extent possible, consistent with the requirements of a continually evolving economy and constantly changing population.

Applicant: We provide high quality, low cost food for the community selling cases of meat.

B. Preserve and promote Cascade County's rich cultural heritage, rooted in natural resource development and reflected in its numerous cultural/historic sites and archaeological areas.

Applicant: Prairie Market will be dedicated to promoting cultures.

C. Promote fire prevention measures throughout the county, giving special emphasis to the extreme fire hazards present at the wild land/urban interface.

Applicant: Not applicable.

D. Encourage the continued development of educational programs and facilities, recreational opportunities and spaces and health services for all county residents.

Applicant: By providing low cost foods, families will have the income for community programs, schooling, and activities.

Staff: As a developed area with an existing structure, it is unlikely that there will be any impact on cultural, historic, or archaeological sites. The applicant has advertised their business to the School District and will be in compliance with USDA regulations. Providing healthy and high-quality food at a low cost is beneficial to the future of the County and staff believes the applicant will cooperate with the School District to provide nutritious food choices.

- b. Consistency with the municipal and joint land use plans incorporated by the Growth Policy.

Applicant: No response.

The Municipal and Joint Land Use Plans incorporated by the Growth Policy were set up to ensure communication takes place between Malmstrom Air Force Base and the Cascade County Planning Division where projects may have an impact on MAFB operations. The regulations pertain to construction activity around Missile Alert Facilities or Launch Facilities, and the height of development around the Height Military Overlay District. The existing structures will be in compliance with the joint land use plan.

Motions:

The following motions are provided for the board's consideration:

- A. Alternative 1: Move the Special Use Permit to allow the operation of a general sales business for prepackaged food on the property be **denied** due to (ZBOA member proposing denial must delineate legal reason that the application be denied); or
- B. Alternative 2: Move the Board adopt the staff report and **approve** the Special Use Permit to allow the operation of a General Sales/Retail business at 57 Gibson Flats Rd, legally described as parcel #0002640900 and Geo Code 02-3016-20-2-01-01-0000, subject to the following conditions:
 - 1. Applicant obtains any and all other Local, State, and Federal Permits.
 - 2. Applicant must obtain approval from the City/County Health Department to operate as a retail food establishment.

Attachments:

- Special Use Permit Application, Answers to the Growth Policy Criteria.
- Vicinity Map

c: Erwin Wollman